

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

Application Approval

Water Division 2-F

This matter comes before the Director of the Department of Natural Resources (Department) pursuant to Neb. Rev. Stat. § 46-233 (Reissue 2004) which requires any person intending to appropriate any of the public waters of the State of Nebraska to make an application to the Department for a permit to make such appropriation and Neb. Rev. Stat. § 46-241 (Cum. Supp. 2006) which generally requires every person intending to construct and operate a storage reservoir to make an application to the Department.

This is to certify that application A-18369 for a permit to impound water and map of reservoir number 16705 have been examined. The Department consulted with the Game and Parks Commission as required by Neb. Rev. Stat. § 37-807 (Reissue 2004), and it is determined that this project will not harm threatened and endangered species or their habitat.

The application and map of reservoir are hereby APPROVED subject to the following limitations, conditions and notice:

1. The source of water is the Missouri River.
2. The priority date is January 12, 2006.
3. The amount of the appropriation shall not exceed 14.07 acre-feet per annum to be stored in Design Duck Lake. This amount is based upon a lake that holds 2.01 acre-feet and filling the lake seven times per year. Design Duck Lake will be located in the W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 29, Township 21 North, Range 12 East of the 6th P.M. in Burt County. Water will be diverted from the Missouri River at a pump located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, Township 21 North, Range 12 East of the 6th P.M.
4. Construction must begin by March 21, 2007, and must continue vigorously, diligently and uninterruptedly to completion unless temporarily interrupted by some unavoidable and natural cause.
5. Construction of the project must be completed by October 1, 2008.
6. The installation of a measuring device may be required.
7. The applicant shall have a preferred right until April 1, 2009, to file an application for a permit to appropriate the water stored for some useful purpose as provided by Neb. Rev. Stat. § 46-242 (Reissue 2004).

8. Impoundment of water under A-18369 may be denied for the benefit of downstream appropriators requiring water for direct irrigation and for senior rights.
9. Owners of reservoirs and dams are liable for all damages arising from leakage, overflow, or structural failure.
10. The Applicant shall contact the Omaha District Corps of Engineers, P.O. Box 5, Omaha, Nebraska 68101 because a federal permit may be required.
11. Failure to comply with the provisions of this Approval may cause cancellation of this Approval. If unable to meet the conditions of approval, a petition for an extension of time may be filed with the Department. An extension may be granted upon a showing of reasonable cause. Petitions must be filed prior to the expiration dates stated in the Approval and accompanied by a \$10 filing fee.
12. In the event that the Missouri River Basin is determined to be fully appropriated by the Department under the provisions of Neb. Rev. Stat. § 46-713 (Cum. Supp. 2006) and no water has been stored in this facility by the date the determination is made, this storage appropriation permit may be cancelled or, if the water has been stored, the amount of water which may be stored in this facility may be limited to the maximum amount that has been stored historically. The applicant may seek a variance from the Department under § 46-714(3)(n) (Cum. Supp. 2006) or may apply for an extension under Neb. Rev. Stat. § 46-238(2) (Reissue 2004) or an exception under Neb. Rev. Stat. § 46-714(3)(g) (Cum. Supp. 2006).

DEPARTMENT OF NATURAL RESOURCES

September 21, 2006

Ann Bleed, Acting Director

A copy of this Approval, a copy of application number A-18369, and a copy of map number 16705 were mailed on September____, 2006, to Newell River Bend Farms, Inc., 515 N. 14th St., Tekamah, Nebraska 68061; and to Bob Dunkle, 2464 Hollow Road, Blair, Nebraska 68008. A copy of this Approval and map number 16705 were provided to the Department's field office, Norfolk, Nebraska.